

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Summary of Proposed Amendments to Title 3, Chapter 5, Rule 3.750 and the Addition of Title 3, Chapter 5, Rule 3.760 to the Local Rules

Grievance procedure

The proposed amendments to rule 3.750 to the court's Local Rules ("Rules") entitled *Grievance procedure* and the addition of rule 3.760 entitled *Inquiries and complaints* are part of the court's continuing effort to review, correct, and update its Rules as needed.

The proposed amendments to rule 3.750 and the addition of rule 3.760 are summarized below immediately followed by the full text with deletions noted in ~~striketrough~~ and additions in underline.

SUMMARY

- California Rules of Court, rules 3.865 and 3.868, require each superior court that makes a list of mediators available to litigants in general civil cases to establish a complaint procedure by local rule effective January 1, 2010. To better comply with this requirement and to institute the simplest, least formal procedure appropriate under the circumstances, the court proposes the following amendments to Local Rule 3.750 and the addition of Local Rule 3.760.

TEXT OF PROPOSED LOCAL RULES 3.750 AND 3.760

Rule 3.750. ~~Grievance~~ Complaint procedure

The ~~grievance-complaint~~ procedure described in this section applies to all providers of alternative dispute resolution (ADR) services; ~~including those who serve as arbitrators for judicial arbitration proceedings~~ who are panel members of the court's ADR Program. The following local rules relating to the complaint procedure are intended to comply with applicable California Rules of Court and to ensure that all complaints are resolved through procedures consistent with California mediation confidentiality statutes. The court's ADR complaint brochure provides more detailed information about the process and procedure.

~~(a) Complaints concerning an ADR panel member~~

~~Complaints concerning an ADR panel member must be submitted in writing to the ADR Program Administrator~~

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(b) ~~Referral to ADR Administration Committee~~

~~The ADR Program Administrator will assemble all available information regarding the complaint and refer the complaint file to the ADR Administration Committee for review.~~

(c) ~~Frivolous complaints~~

~~If the committee finds the complaint is frivolous or without merit on its face, no further action will be taken, although a file of the complaint will be maintained.~~

(d) ~~investigation and action by the committee~~

~~If the committee determines an investigation is warranted, it will establish a subcommittee of its members for such purpose. The subcommittee will review the complaint, conduct an investigation, and make a recommendation for action to the full committee. A copy of the complaint will be provided to the affected panel member who will be given an opportunity to respond in writing. Upon the conclusion of the subcommittee's investigation and recommendation, the committee will take appropriate action, including but not limited to, issuing a reprimand of the panel member, or directing the suspension or removal of the panel member from the court's ADR Provider List. The decision of the committee is final.~~

(e) ~~Notification of action~~

~~Each complainant and affected panelist will be promptly notified in writing of the receipt and of the disposition of the complaint.~~

(f) ~~Confidentiality of complaint file~~

~~Except as provided above or as necessitated by an investigation, papers filed and proceedings conducted on a complaint against a panel member will be kept confidential.~~

Rule 3.760. Inquiries and complaints

(a) Designation of complaint coordinator

The ADR program administrator is the designated complaint coordinator unless otherwise ordered by the presiding judge.

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(b) Acknowledgement of complaint

Within three court days of receipt of an inquiry or complaint, the complaint coordinator will send written acknowledgement of receipt.

(c) Preliminary review

Within 10 court days of receipt of an inquiry or complaint, the complaint coordinator will determine whether the complaint can be informally resolved or closed, or whether an investigation is warranted. If an investigation is warranted then the complainant may be asked to submit the complaint in writing.

(d) Investigation and recommendation

- (1) Within three court days of a determination that the complaint warrants an investigation, the panelist will be given written notice of the complaint. If the complaint was initiated as an unwritten communication and the complainant is asked to submit the complaint in writing, the panelist will be given written notice of the complaint within three court days of receipt of the written complaint.
- (2) The panelist must submit any written response within 10 court days. This period may be extended by the presiding judge upon a showing of good cause.
- (3) The investigation will be conducted by a complaint committee.
- (4) Within 30 court days, the complaint committee will conclude the investigation and submit its recommendation concerning court action to the presiding judge. This period may be extended by the presiding judge upon a showing of good cause.

(e) Final decision

- (1) Within 10 court days of receipt of the complaint committee's recommendation, the presiding judge will render a final decision.
- (2) One or more of the following actions may be taken:
 - (A) no action;
 - (B) counsel, admonish or reprimand the panelist;
 - (C) impose additional training requirements as a condition of remaining a member of the court's panel;
 - (D) suspend the panelist from the panel; or
 - (E) remove the panelist from the panel.

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(f) Notification of final action

Each complainant and affected panelist will be promptly notified in writing of the final decision.